

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-CV-40014-FDS

SANDRA S. KATZ,
Defendant In Counterclaim

v.

MATTHEW DENN, INSURANCE
COMMISSIONER OF THE STATE OF DELAWARE
AS RECEIVER OF NATIONAL HERITAGE
LIFE INSURANCE COMPANY IN LIQUIDATION
Plaintiff in Counterclaim and Third Party Plaintiff

v.

FEDERAL DEPOSIT INSURANCE CORPORATION,
UNITED STATES OF AMERICA, E. PERRY KING,
ALAN MASON, ALAN MASON LEGAL
SERVICES, P.C., ALAN MASON LEGAL SERVICES,
INC., ALAN MASON D/B/A ALAN MASON LEGAL
SERVICES, P.C., ALAN MASON D/B/A ALAN
MASON LEGAL SERVICES, INC., AND ALAN
MASON LEGAL SERVICES, P.C. D/B/A ALAN
MASON LEGAL SERVICES, INC.,
Third Party Defendants.

v.

E. PERRY KING AND MANSOUR GAVAL,
Fourth Party Defendants.

**MATTHEW DENN'S, INSURANCE COMMISSIONER OF THE STATE OF
DELAWARE, MOTION FOR RECONSIDERATION OF DISMISSAL OF
THIRD-PARTY COMPLAINT**

Now comes the Defendant Matthew Denn, Insurance Commissioner of the State of Delaware, as Receiver of National Heritage Life Insurance Company in Liquidation ("NHL"), and respectfully requests this Honorable Court to reconsider its dismissal of the Third-Party Complaint, or in the alternative leave to amend the Third-Party Complaint pursuant to Fed.R.Civ.P. 15(a). As grounds therefore, NHL states that the Third-Party

Complaint meets the requirements of Fed.R.Civ.P. 14(a), by specifically outlining the liability of the third party defendants to NHL in the event that the NHL's interest is compromised through Katz's Complaint against NHL, or NHL's Counterclaims against Katz. For factual outline of claim, see Third Party Complaint, ¶s 14, 18-24.

NHL relies upon the facts and law outlined in its Memorandum of Law submitted in support hereof.

Respectfully submitted,
Matthew Denn,
Insurance Commissioner of
the State of Delaware As
Receiver of National Heritage
Life Insurance Company in

By his attorneys,

/s/ James F. Creed, Jr.

James F. Creed, Jr.
BBO#552138
Sara D. Trupe Cloherty
BBO#632528
CREED & FORMICA
1329 Highland Avenue
Needham, MA 02492
(781) 449-4600

Dated: April 26, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true copy of the within document to be served by pursuant to Local Rules 5.4(c):

Robert B. Gibbons, Esq.
Christopher T. Meier, Esq.
Mirick, O'Connell, DeMallie & Lougee, LLP
100 Front Street
Worcester, MA 01608

Anita Johnson
Assistant U.S. Attorney
U.S. Attorney's Office
Moakley United States Courthouse
One Courthouse Way – Suite 9200
Boston, MA 02210

Paul D. Maggioni, Jr.
FDIC, Legal Services Office
New York Legal Services Office
20 Exchange Place
New York, NY 10005

Timothy Wickstrom, Esq.
Tashjian, Simsarian & Wickstrom
370 Main Street
Worcester, MA 01608

/s/ James F. Creed, Jr.

James F. Creed Jr.

Dated: April 26, 2007

LOCAL RULE 7.1 CONFERENCE

I hereby certify that on April 25 & 26, 2007, I conferenced with counsel in an effort in good faith to resolve or narrow the issues presented therein.

/s/ Sara D. Trupe Cloherty

Sara D. Trupe Cloherty

Dated: April 26, 2007